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To: Microsoft ATR
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Subject: Microsoft Settlement

Section IV.B of the proposed settlement agreement creates a three member Technical Committee "to assist in enforcement of and compliance with this Final Judgment". One member of the committee is to be chosen by Microsoft, one by the plaintiffs, and a third by the first two members.

Microsoft is not allowed to object to the third member except on grounds specified in IV.B.2. However, there is no restriction placed on the grounds on which the Microsoft-appointee might object to a candidate for the third position. This gives Microsoft indirect veto power over the choice of the third member, and therefore the power to appoint or veto two-thirds of the membership of the Technical Committee.

If the Department of Justice proposed giving a convicted felon the power to appoint or veto two-thirds of the members of his parole board, that would be an outrage.

To give Microsoft the analogous power is outrageous and should by itself be sufficient reason to make the proposed settlement unacceptable.

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